

Appl. No. 10/643,330  
PRELIMINARY AMENDMENT B BEFORE FIRST ACTION

**Remarks**

This paper is a second preliminary amendment filed before a first action has been received in this application. The claims formerly containing the term "remains" have been amended to replace the word "remains" with the word "tissue." Also, claims 31-33 have been added containing the further limitation that the tissue of the antecedent claim is remains. Support for this amendment replacing the word "remains" with the word "tissue" can be found in Paragraphs 0028 and 0030-0035, where the material from which carbon is collected is alternatively referred to as "remains" or "tissue." The amended claims therefore do not introduce any new matter.

For example, the first sentence of Paragraph 0028 states:

[0028] In the preferred embodiment, a synthetic diamond is made from carbon collected from the remains of a human.

Later, however, Paragraph 0028 defines the invention more broadly:

The invention can, however, be used to make a synthetic diamond from carbon collected from any desired source .... The collection of carbon from human remains is described below as one embodiment of the invention.

Alternative references to the "remains" as "tissue" are found, for example, in Paragraphs 0030-0035. Specifically, as one example, Paragraph 0030 refers to "carbonized remains such as organ tissue."

One difference between "remains" and "tissue" is that, in some contexts, "remains" might be interpreted more narrowly as the tissue of a deceased human or animal, while "tissue" does not indicate whether the source of the tissue is living or deceased. For example, "tissue" would apply to material derived from a living, viable human such as hair clippings, a placenta, a diseased organ removed during surgery, and many other examples. The present specification and broad claims specifically contemplate and claim the use of the present invention with living tissue, as in Paragraph 0021, which states:

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[0021] It is still another object of the present invention to provide a synthetic gem which is a symbol of the bond between two individuals who wish to express their commitment by providing ingredients to a single synthetic gem.

Another potential difference between "remains" and "tissue" is that "remains" can be interpreted in some instances (though not here) to refer to an entire body of a deceased person or animal. "Tissue," however, does not have that connotation. The applicant has most broadly described and claimed the invention as applicable to tissue that is less than an entire human or animal body.

The remarks and Declaration under 37 CFR Section 1.132 accompanying the first Preliminary Amendment, filed March 3, 2004, show that the presently pending claims (14-30) are patentable in view of the prior art applied and the reasons provided in the parent application. The Examiner is respectfully requested to consider this information when determining the patentability of the present claims.

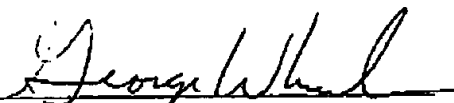
#### Conclusion

For the stated reasons, claims 18-33 are patentable and should be allowed immediately.

Please charge any additional fees or credit overpayment to the deposit account of McAndrews, Held & Malloy, Ltd., Account No. 13-0017.

Respectfully submitted,

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DATE

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